

## REMARKS

Claims 1 to 32 continue to be under consideration.

Claims 1, 27 and 32 have been amended based on language in claim 18.

### *The Office Action refers to Election/Restrictions*

Examiner acknowledges the reply filed 2/27/2007 in which Applicant's Representative elected Group I with traverse. Applicant's arguments are found persuasive and therefore the election/restriction is withdrawn. Currently claims 1-32 are pending for examination in this application.

Applicant appreciates the withdrawal of the restriction requirement.

### *The Office Action refers to Information Disclosure Statement*

Examiner acknowledges that the information disclosure statement (IDS) filed with this application is incorrect, the patent inventor and patent number do not match and the patent is not contain any seemingly relevant subject matter, accordingly, the examiner is not considering any information disclosure statements filed at this time.

The Examiner is correct with respect to an incongruent Information Disclosure Statement. The patent number was given incorrectly as 4,981,730 and the correct patent number is 4,982,730. Applicants are attaching a revised Information Disclosure Statement referring now to US patent 4,982,730 to Royce C. Lewis, Jr., and issued January 8, 1991.

### *The Office Action refers to the Specification*

The disclosure is objected to because of the following informalities: The form of the specification does not meet current MPEP standards with the correct section headings and form (see MPEP 601).

Appropriate correction is required.

The present amendment introduces section headings into the specification.

***The Office Action refers to Claim Objections.***

Claims 1-32 stand objected to because of the following informalities: The claims contain numerous errors (grammatical, antecedent basis, language) and are also vague because of language errors, Examiner requests Applicant's Representative examine and correct the deficiencies in this application prior to further action, some examples are:

Claim 1: "characterized" - improper US form claim language

Claim 2: "character" - word is improper; "the suction apparatus" - lacks antecedent basis

Claim 3: "characterized" - improper US form claim language; "a suction tube out of an opaque" - missing words

Claim 7: "in that an adaptation sleeve can be slide..." - claim seems to cover subject matter already present in claim 1.

Claims 13 and 14: claims subject matter seems to a repeated of prior claimed subject matter.

These same errors appear in several other claims, and are carried through duplicate dependant claims. Appropriate correction is required.

The claims are now amended along the lines kindly proposed in the Office Action.

*The Office Action refers to Claim Rejections - 35 USC § 102.*

Claims 1-27 and 29-32 stand rejected under 35 U.S.C. 102(b) as being anticipated by Banko (3,805,787).

Applicants respectfully traverse.

Banko discloses an ultrasonic surgical instrument.

Regarding claims 1-27 and 29-32, Banko discloses a medical treatment device (10) with a hand piece (near 19) equipped with an ultrasound vibration generator (14) and a sonotrode (24) attached to the hand piece, wherein an adaptation sleeve (40) can be slid over the sonotrode with the sonotrode extending beyond the sleeve and containing a connector (40, 50) for receiving a suction hose with a separator between the suction apparatus (32) and the suction hose (32a) (Figures 1-7A) and a flushing line (30a) from an irrigation source (30) that are aligned with the axis of symmetry of the handpiece (Figure 4). Additionally, Banko discloses that the adaptation sleeve is made of opaque stainless steel (col 4, In 1-10) and the ultrasound apparatus is capable of providing a frequency of 5kHz to 60kHz and preferably from 15 kHz a to 30 kHz (col 2, In 50-70).

The reference Banko shows a probe 24 as a solid cylindrical rod ending in a tip 24a. According to the reference Banko, column 4, lines 55 to 57: "Irrigation fluid or suction pressure from conduit 30a or 32a passes from chamber 41 through the space, or passage, 25 between probe 24 and sleeve 46." Thus the probe 24 is a solid cylinder rod according to the reference Banko.

In contrast claim 18 of the present application requires "a channel disposed within the sonotrode for feeding a medical flushing liquid to the tip of the sonotrode;". This channel inside the sonotrode patentably distinguishes over the teaching of the reference Banko, where the probe 24 does not exhibit any channel.. claims 1, 27 and 32 have now been amended to include a similar clause like claim 18.

The construction of claim 18 is associated with the advantage that the requirement of concentricity is not so severe as in the reference Banko, where it is stated in column 4, lines 3 to 7: "As should be apparent, the surface area 47 in which the joining of members 40 and 46 takes place provides a high degree of stability for the sleeve 46 so that it can be kept coaxial and concentric with the probe 24.".

In contrast the channel of applicants' sonotrode does not require the high degree of stability for a sleeve 46 so that it can be kept coaxial and concentric with the probe 24 ( reference Banko, column 4, lines 5 to 7).

*The Office Action refers to Claim Rejections - 35 USC § 103.*

Claims 28-29 stand rejected under 35 U.S.C 103(a) as being unpatentable over Banko in view of Mallet et al. (6,592,595). Banko meets the claim limitations as described above except for the HEPA filter trap system.

However, Mallet et al. teaches a microderm suction apparatus.

Applicants respectfully traverse. Applicants furnish a medical treatment apparatus employing ultra sound for wound treatment and so does the reference Banko. The reference Mallett et al. teaches microdermabrasion and suction massage. There is no suggestion in the reference Mallett et al. to apply their teaching to an ultrasonic wound treatment apparatus. Thus a person of ordinary skill in the art would not combine the references Banko and Mallett et al. Thus claims 28 and 29 are clearly unobvious over the references Banko and Mallett et al.

Regarding claims 28-29, Mallet et al. teaches a filter system (32) containing a HEPA filter (203) (Figure 9).

At the time of the invention, it would have been obvious to add the filter trap system of Mallet et al. to the system of Banko et al. in order to contain potentially harmful body fluids from the body. The references are analogous in the art and with the instant invention; therefore, a combination is proper. Therefore, one skilled in the art would have combined the teachings in the references in light of the disclosure of Mallet et al.

Applicants respectfully disagree.

The reference mallet et al. states in column 7, lines 33 to 39: "The filter 203 provides filtration of the air exiting the crystal return station 34 into a conduit 54. Since this exit air forms the first air stream which in turn must pass through the 3-way mode selector valve 29 and the vacuum pump21, it is important that the crystals 63, and any fragments thereof, be removed with this exit filter 203.".

Thus the filter 203 of the reference Mallett et al. serves to remove crystals from an air stream. There is no suggestion or teaching that the suction pressure of the Banko reference contains any crystals. Since the filter 203 of the reference Mallett et al. serves to remove crystals and since there are no crystals in the reference Banko, a person of ordinary skill in the art would not employ the filter 203 in connection with the suction pressure of the reference Banko, since the reference Banko does not teach any crystals, which are to be caught and also fails to teach an air stream.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Christ et al. (5,984,889).

This reference Christ et al. is substantially concerned with the delivery of viscoelastic material to the human eye and to ophthalmic

surgical procedures. There is not much in common in the reference Christ et al. with the present invention.

Reconsideration of all outstanding rejections is respectfully requested.

All claims presently submitted are deemed to be in allowable form and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

Holger Söring et al.

*Horst M. Kasper*  
By: \_\_\_\_\_  
Horst M. Kasper, their attorney  
13 Forest Drive, Warren, N.J. 07059  
Tel.(908)757-2839 Tel.(908)668-5262  
Reg.No. 28559; Docket No.: SOR205

/rep/ok/am